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February 9, 2017

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The Honorable Steven B. Berlin
Administrative Law Judge
UNITED STATES DEPARTMENT OF LABOR
Office of Administrative Law Judges
90 Seventh Street, Suite 4-800
San Francisco, CA 94103-1516

Administrative Law Judges
San Francisco, Ca

Re: OFCCP v. Google Inc., Case No. 2017-OFC-00004, Defendant
Google Inc.'s Request for Interim Hearing

Your Honor:

This letter responds to Defendant Google Inc.'s request for a hearing primarily (1) to argue its motion to remove this matter from expedited proceedings and (2) to set a briefing schedule on OFCCP's summary judgment motion.

As to the latter, a specially-set briefing schedule is unnecessary because the discovery Google seeks is not required to respond to OFCCP's motion. Google may respond that the motion is premature by attempting to meet its burden under FRCP 56(d). Google's response is due February 17, *see* 41 C.F.R. § 60-30.8(a), and the company has not moved for an extension by showing good cause. As such, the Court should deny that request, which serves only to further delay this expedited proceeding and, by extension, the ongoing compliance evaluation.

With respect to Google's request for oral argument on its motion, insofar as the Court requires such argument, OFCCP respectfully requests that it be deferred until Google's motion can be heard with the agency's Motion for Summary Judgment. As Chief Judge Henley's decision in *OFCCP v. Convergys* shows, the Court can efficiently resolve the parties' cross-motions simultaneously. *See* No. 15-OFC-00002, 2015 WL 7258441 (Dep't of Labor Oct. 23, 2015) ("The granting of Plaintiff's *Motion for Decision on the Pleadings* obviates the need for a ruling on Respondent's *Motion Opposing Expedited Hearing and to Permit Discovery*.").

The straightforward legal issues in this expedited proceeding, similar to those in a subpoena enforcement action or discovery dispute, do not require discovery or multiple hearings. Google's request for an interim hearing should be denied.

Respectfully,

Marc A. Pilotin
Trial Attorney

CC: Daniel V. Duff, Esq. (via electronic mail)